

REMARKS

Rejection of claims 1-6 under 35 U.S.C. §103(a) as being unpatentable over Cezar in view of Garrett

The Examiner rejected claims 1-6 under 35 U.S.C. §103(a) as being unpatentable over Cezar in view of Garrett. In the rejection of claim 1 and 4, the Examiner reads the ad content in Cezar on the intermediate web page in the claims, and reads the next available ad in Cezar on the next web page, and states that Cezar renders the intermediate page (an ad) for a predetermined period of time, and then automatically renders the next web page (next ad) when the predetermined period of time expires. The Examiner then admits that Cezar does not disclose the first web page residing in the memory that includes a form into which a user may enter information and a mechanism for the user to submit the entered information to the web server application, wherein the web server renders the first web page to a browser for the user to enter information, and when the user submits the entered information to the web server application the web server application received the entered information. The Examiner then cites to Garrett as allegedly teaching these limitations, and states:

Thus, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to include a form into which a user may enter information and a mechanism for the user to submit the entered information to the web server application in the system of Cezar, as taught by Garrett. The motivation being to enable the user to use the template to submit the requests to the server.

Applicants respectfully submit that the combination of Cezar and Garrett suggested by the Examiner would not have been obvious to one of ordinary skill in the art, that the Examiner's stated rationale for combining Cezar and Garrett is defective, and that the only possible rationale for combining Cezar and Garrett as suggested by the

Examiner is through the use of impermissible hindsight reconstruction. Each of these arguments is addressed in turn below.

Combination of Cezar and Garrett Suggested by the Examiner Would Not Have Been Obvious to One of Ordinary Skill in the Art

Applicants respectfully assert that the combination of Cezar and Garrett suggested by the Examiner would not have been obvious to one of ordinary skill in the art. Cezar deals with the rendering of advertisements in a web browser while a person is browsing. In Cezar, once a user makes an initial browser request to a client webserver (step 30 in FIG. 2), a frame set (24 in FIG. 1) is loaded, and advertisements 16 are then displayed in the frame set. Each advertisement includes a timer that determines how long the advertisement is displayed. When a timer times out, the next advertisement is selected and displayed in the frame set. Note that the rendering of advertisements in the frame set in Cezar occurs without any user control or intervention. Once the user makes an initial request to a client webserver (step 30 in FIG. 2), a first advertisement is automatically displayed in the frame set, and when the timer for the first advertisement times out, a different ad is automatically displayed in the frame set. Display of ads continues as long as the user is browsing the same client webserver, without any interaction or control by the user. Automatic rendering of ads without user intervention is a fundamental principle in on-line advertising. If the advertising were only presented at the user's request, the coverage of an advertiser's ad would be substantially reduced, and advertising would not have its desired effect. Thus, a fundamental principle of online advertising is that it generally occurs without user intervention or control, as specifically taught by Cezar.

Garrett teaches the use of a form to submit information to a web server to complete a purchase transaction. The user fills out the form and decides when to submit the form to the web server. A user controls when information in a form is submitted, so Garrett operates under user control. Because the timed rendering of advertisements in

Cezar occurs with no user control, it would not have been obvious to one of ordinary skill in the art to combine the form in Garrett with the timed rendering of ads in Cezar to arrive at the claimed invention.

Claim 1 recites:

wherein the web server application renders the first web page to a browser for the user to enter the information, and when the user submits the entered information to the web server application, the web server application receives the entered information, renders the intermediate page for a predetermined period of time, and then automatically renders the next web page when the predetermined period of time expires.

We see from this clause in claim 1 that the web server application performs several functions: 1) renders the first web page to a browser for the user to enter the information; 2) when the user submits the entered information to the web server application the web server application performs the following three tasks: 2A) receives the entered information; 2B) renders the intermediate page for a predetermined period of time; 2C) then automatically renders the next web page when the predetermined period of time expires. The web server application in Garrett renders a page with a form to a user to enter information, which the user submits to the web server application. However, claim 1 specifically recites, *when the user submits the entered information to the web server application*, the web server application performs steps 2A), 2B) and 2C) listed above. There is no support in Garrett, Cezar or their combination to perform steps 2B) and 2C) *when the user submits entered information to a web server*. To the contrary, steps 2B) and 2C) in Cezar are performed without the user entering information to a web server. Because the combination of Cezar and Garrett do not include a web server application that performs all of steps 2A), 2B) and 2C) above when the user submits the entered information to the web server, claims 1 and 4 are allowable over the combination of Cezar and Garrett.

The Examiner's Stated Rationale for Combining Cezar and Garrett Is Defective

Applicants respectfully assert that the Examiner's stated rationale for combining Cezar and Garrett is defective. The Examiner's stated rationale for the combination of Cezar and Garrett is: "The motivation being to enable the user to use the template to submit requests to the server." This stated rationale is cryptic and unclear. It is unclear what the "template" in this stated rationale refers to. Let's assume it refers to the form taught in Garrett. If this is a correct assumption, the rationale for the combination is to enable the user to use the form in Garrett to submit requests to the server. But this is what Garrett alone does. Nowhere does the Examiner's stated rationale address any teaching in Cezar. As a result, the Examiner's stated motivation for combining Cezar and Garrett is defective because it does not address why one skilled in the art would be motivated to combine the teachings of the two. Because the Examiner has not provided a coherent rationale for combining Cezar and Garrett, the Examiner has failed to establish a prima facie case of obviousness for claims 1-6 under 35 U.S.C. §103(a) based on the combination of Cezar and Garrett.

The Only Possible Rationale for Combining Cezar and Garrett as Suggested by the Examiner Is Through the Use of Impermissible Hindsight Reconstruction

Applicants respectfully assert that the only possible rationale for combining Cezar and Garrett as suggested by the Examiner is through the use of impermissible hindsight reconstruction. The Federal Circuit has held:

To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher. In re Fine, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988)(quoting W.L. Gore & Assoc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 U.S.P.Q. 303, 312-13 (Fed. Cir. 1983)).

Applicants respectfully assert that there is no teaching or suggestion in either Cezar or Garrett that supports the Examiner's combination. The only possible motivation for the combination comes from applicants' claims, which amounts to impermissible hindsight reconstruction by the Examiner. The Federal Circuit has also held:

In determining obviousness, "the inquiry is not whether each element existed in the prior art, but whether the prior art made obvious the invention as a whole for which patentability is claimed. Grain Processing Corp. v. American Maize-Products Co., 840 F.2d 902, 907, 5 U.S.P.Q.2d 1788, 1793 (Fed. Cir. 1988)(quoting Hartness Int'l, Inc. v. Simplimatic Eng'g Co., 819 F.2d 1100, 1108, 2 U.S.P.Q.2d 1826, 1832 (Fed. Cir. 1987)).

Applicants recognize that Cezar and Garrett both teach certain limitations in the claims. This is not the end of the inquiry. As stated above, the relevant inquiry is whether the prior art made obvious the invention as a whole for which patentability is claimed.

Applicants state at p. 12 lines 1-7 of the specification:

The concept of redirection is known in the art, and is commonly used for directing an HTTP request for a web page to the location of a different web page if the requested web page is no longer available. Redirection with a delay as discussed herein is also known. However, redirection as a result of submitting a form to a web server is not known in the art, and is the subject of the present invention. By redirecting the user to an intermediate page, then to a next page after a short delay, the likelihood of inadvertently submitting the form information to the web server multiple times decreases.

As stated above, redirection as a result of submitting a form to a web server is not known in the art. Neither Cezar nor Garrett teach such redirection. The timed rendering of advertisements in Cezar does not read on the timed rendering of an intermediate page in response to a user submitting information in a form to a web server.

For the many reasons given above, applicants respectfully assert that claims 1 and 4 are allowable over the combination of Cezar and Garrett, and respectfully request reconsideration of the Examiner's rejection of claims 1 and 4 under 35 U.S.C. §103(a).

Claims 2 and 5

In rejecting claims 2 and 5, the Examiner relies upon the rejection of claim 1 and 4, then states:

In addition, Cezar/Garrett disclose: wherein if the user reloads the next web page the entered information is not re-submitted to the web server application (105, fig. 12 and corresponding text, Garrett).

Item 105 in FIG. 12 of Garrett is a BACK button. Col. 8 lines 59-63 states: "The purchaser can backtrack from the display of FIG. 5 and re-display FIG. 3 by clicking on 'Back' button 105 of the display in FIG. 5, and again on 'Back' button 105 of the display of FIG. 4 to retrieve the display of FIG. 3." The BACK button 105 in Garrett thus performs similar function to BACK buttons in known browsers, allowing a user to reload the previous page. Claim 2 recites:

2. The apparatus of claim 1 wherein if the user reloads the next web page the entered information is not re-submitted to the web server application.

In the rejection of claim 1, the Examiner reads the next ad in Cezar on the next web page in claim 1. Claim 2 refers to the user reloading the next web page. Because the display of ads in Cezar happens without user control or intervention, it is impossible in Cezar for a user to reload an advertisement. For this reason, the Examiner's stated combination teaches away from the user reloading the next web page in claim 2. Furthermore, there is no teaching in either Cezar or Garrett of not re-submitting form information to the web server application if the user reloads the next web page. For these many reasons, claims 2 and 5 are allowable over the combination of Cezar and Garrett, and applicants

respectfully request reconsideration of the Examiner's rejection of claims 2 and 5 under 35 U.S.C. §103(a).


Claims 3 and 6

Claims 3 and 6 depend on claims 1 and 4, respectively, which are allowable for the reasons given above. As a result, claims 3 and 6 are allowable as depending on allowable independent claims.

Conclusion

In summary, neither Cezar nor Garrett, either alone or in combination, teach, support, or suggest the unique combination of features in applicants' claims presently on file. Therefore, applicants respectfully assert that all of applicants' claims are allowable. Such allowance at an early date is respectfully requested. The Examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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